

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service  
Commission held at its office  
in Jefferson City on the 12<sup>th</sup>  
day of July, 2016.

Office of the Public Counsel,	)	
	)	
Complainant,	)	
	)	
v.	)	<b><u>File No. GC-2016-0297</u></b>
	)	
Laclede Gas Company and	)	
Missouri Gas Energy	)	
	)	
Respondents.	)	

**ORDER REGARDING MOTION TO COMPEL**

Issue Date: July 12, 2016

Effective Date: July 22, 2016

On April 26, 2016<sup>1</sup>, the Office of the Public Counsel filed a complaint against Laclede Gas Company ("Laclede") and Missouri Gas Energy ("MGE") (collectively, "Respondents"). The complaint alleges that Respondents are overearning and asks the Commission to lower Respondents' rates. Respondents deny the complaint and have filed a motion to dismiss.

OPC asks the Commission to compel Respondents to answer Data Requests ("DRs") 27, 1000, and 1005. Respondents object and also point out that OPC has issued 103 DRs. Because of that large number of DRs, Respondents argue it will need 60 days to answer the DRs.

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<sup>1</sup> Calendar references are to 2016.

Litigants before the Commission may obtain discovery under the same conditions as in civil actions in the circuit court.<sup>2</sup> At circuit court, and, thus, at the Commission, parties may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action. It is not ground for objection that the information sought will be inadmissible at trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.<sup>3</sup>

The Commission can make any order which justice requires to protect a party from annoyance, embarrassment, oppression, or undue burden or expense.<sup>4</sup> The method of discovery at issue is data requests, which are informal requests for documents or information.<sup>5</sup> Data requests are similar in nature to interrogatories and requests to produce documents. As such, the Commission can sanction a party failing to answer data requests by such means as: refusing to allow the disobedient party to support or oppose claims, prohibiting the disobedient party from introducing designated matters in evidence, striking pleadings, or rendering a judgment against the disobedient party.<sup>6</sup>

#### DR 27

*Is Laclede Group or any affiliate of Laclede Group currently in any discussions with other Companies about a future acquisition for Laclede Group or any of its subsidiaries? If yes, please identify the acquisition target and provide a detailed discussion of the activities to date.*

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<sup>2</sup> Commission Rule 4 CSR 240-2.090(1).

<sup>3</sup> Missouri Rule of Civil Procedure 56.01(b).

<sup>4</sup> Missouri Rule of Civil Procedure 56.01(c).

<sup>5</sup> Commission Rule 4 CSR 240-2.090(2)(A).

<sup>6</sup> Missouri Rule of Civil Procedure 61.01(b), (d).

The Commission finds OPC's attempt to seek substantive details about possible companies Laclede Group may be targeting for acquisition is not reasonably calculated to lead to the discovery of admissible evidence. However, as Respondents hint<sup>7</sup>, a more narrowly tailored DR or other discovery request may be permissible. The motion to compel an answer to DR 27 is denied.

#### DR 1000

*Please provide a list and arrange for a review of all board of director meeting minutes and meeting handouts and presentations (including minutes of all committee meetings) for The Laclede Group and Laclede Gas for the period between January 2013 and May 5, 2016.*

As opposed to DR 27, the Commission finds this request for the board of director meeting minutes, handouts and presentations is reasonably calculated to lead to the discovery of admissible evidence. Any or all of that information could discuss Respondents' earnings, return on equity, and similar topics that could assist OPC in prosecuting its complaint. Should a party wish to introduce this information or information derived therefrom into evidence, Respondents still have the right to object and the right to request the information to be designated Highly Confidential. The motion to compel an answer to DR 1000 is granted.

#### DR 1005

*Please provide a copy of each and every financial report produced for management review in 2015 and 2016.*

This DR could require Respondents to search for and produce several thousand pages of information. As such, the DR is unduly burdensome. More narrowly tailored

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<sup>7</sup> Respondents Response in Opposition to Motion to Compel, ¶ 14 (filed July 5, 2016).

DRs may be appropriate. However, the motion to compel an answer to DR 1005 is denied.

Finally, due to the large number of DRs OPC has issued Respondents, the Commission finds Respondents' request to be allowed 60 days to respond reasonable. Thus, the Commission will grant that request.

**THE COMMISSION ORDERS THAT:**

1. The motion to compel responses to Data Requests 27 and 1005 are denied.
2. The motion to compel a response to Data Request 1000 is granted.
3. Laclede Gas Company and Missouri Gas Energy shall have 60 days from the date this order is issued to respond to the Office of Public Counsel's data requests.
4. This order shall become effective on July 22, 2016.

**BY THE COMMISSION**

Morris L. Woodruff  
Secretary

Hall, Chm., Stoll, Kenney,  
Rupp, and Coleman, CC., concur.

Pridgin, Deputy Chief Regulatory Law Judge